



General Assembly

January Session, 2007

Raised Bill No. 1096

LCO No. 3860

* _____SB01096HS_PH_030107_____*

Referred to Committee on Human Services

Introduced by:
(HS)

***AN ACT CONCERNING THE ESTABLISHMENT OF THE FATALITY
REVIEW BOARD FOR PERSONS WITH DISABILITIES.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) There is established a
2 Fatality Review Board for Persons with Disabilities. The fatality review
3 board shall investigate the circumstances surrounding the untimely
4 deaths of persons with disabilities, that, in the opinion of the director
5 of the Office of Protection and Advocacy for Persons with Disabilities
6 warrant a full and independent investigation. The fatality review
7 board shall investigate the untimely deaths of clients of the
8 Department of Mental Retardation in accordance with subsection (b) of
9 section 17a-210 of the general statutes, as amended by this act. In
10 addition, the fatality review board may investigate the circumstances
11 surrounding deaths as described in subsection (b) of section 46a-11c of
12 the general statutes. In order to facilitate a prompt investigation of the
13 circumstances surrounding the untimely death of a client under the
14 care of the Department of Mental Retardation, said director may refer a
15 particular case to the fatality review board prior to the completion of a
16 review conducted by the Independent Mortality Review Board
17 pursuant to the provisions of section 17a-210 of the general statutes, as

18 amended by this act.

19 (b) The Fatality Review Board for Persons with Disabilities shall
 20 consist of the following six members: The director of the Office of
 21 Protection and Advocacy for Persons with Disabilities, the Chief State's
 22 Attorney or his designee and four members appointed by the
 23 Governor, one of whom shall be a law enforcement professional with a
 24 background in forensic investigations, one of whom shall be a mental
 25 retardation professional and two of whom shall be medical
 26 professionals. The Commissioner of Mental Retardation or the
 27 commissioner's designee shall serve as a nonvoting liaison to the
 28 fatality review board. The director of the Office of Protection and
 29 Advocacy for Persons with Disabilities shall serve as chairperson of the
 30 fatality review board and may assign agency staff and hire consultants
 31 with expertise as necessary to assist the board in the completion of its
 32 investigation.

33 (c) In accordance with section 46a-13a of the general statutes, all
 34 relevant state, local or private agencies shall cooperate and assist the
 35 fatality review board in the performance of its statutory duties.

36 (d) On or before February 1, 2008, and annually thereafter, the
 37 fatality review board shall report, in accordance with section 11-4a of
 38 the general statutes, on its investigations to the Governor, and to the
 39 joint standing committees of the General Assembly having cognizance
 40 of matters relating to human services and public health.

41 Sec. 2. Section 17a-210 of the general statutes is repealed and the
 42 following is substituted in lieu thereof (*Effective from passage*):

43 (a) There shall be a Department of Mental Retardation. The
 44 Department of Mental Retardation, with the advice of a Council on
 45 Mental Retardation, shall be responsible for the planning,
 46 development and administration of complete, comprehensive and
 47 integrated state-wide services for persons with mental retardation and
 48 persons medically diagnosed as having Prader-Willi syndrome. The

49 Department of Mental Retardation shall be under the supervision of a
50 Commissioner of Mental Retardation, who shall be appointed by the
51 Governor in accordance with the provisions of sections 4-5 to 4-8,
52 inclusive. The Council on Mental Retardation may advise the
53 Governor on the appointment. The commissioner shall be a person
54 who has background, training, education or experience in
55 administering programs for the care, training, education, treatment
56 and custody of persons with mental retardation. The commissioner
57 shall be responsible, with the advice of the council, for: (1) Planning
58 and developing complete, comprehensive and integrated state-wide
59 services for persons with mental retardation; (2) the implementation
60 and where appropriate the funding of such services; and (3) the
61 coordination of the efforts of the Department of Mental Retardation
62 with those of other state departments and agencies, municipal
63 governments and private agencies concerned with and providing
64 services for persons with mental retardation. The commissioner shall
65 be responsible for the administration and operation of the state
66 training school, state mental retardation regions and all state-operated
67 community-based residential facilities established for the diagnosis,
68 care and training of persons with mental retardation. The
69 commissioner shall be responsible for establishing standards,
70 providing technical assistance and exercising the requisite supervision
71 of all state-supported residential, day and program support services
72 for persons with mental retardation and work activity programs
73 operated pursuant to section 17a-226. [The commissioner shall conduct
74 or monitor investigations into allegations of abuse and neglect and file
75 reports as requested by state agencies having statutory responsibility
76 for the conduct and oversight of such investigations. In the event of the
77 death of a person with mental retardation for whom the department
78 has direct or oversight responsibility for medical care, the
79 commissioner shall ensure that a comprehensive and timely review of
80 the events, overall care, quality of life issues and medical care
81 preceding such death is conducted by the department and shall, as
82 requested, provide information and assistance to the Independent
83 Mortality Review Board established by Executive Order No. 25 of

84 Governor John G. Rowland. The commissioner shall report to the
85 board and the board shall review any death: (A) Involving an
86 allegation of abuse or neglect; (B) for which the Office of Chief Medical
87 Examiner or local medical examiner has accepted jurisdiction; (C) in
88 which an autopsy was performed; (D) which was sudden and
89 unexpected; or (E) in which the commissioner's review raises questions
90 about the appropriateness of care.] The commissioner shall stimulate
91 research by public and private agencies, institutions of higher learning
92 and hospitals, in the interest of the elimination and amelioration of
93 retardation and care and training of persons with mental retardation.

94 (b) The commissioner shall conduct or monitor investigations into
95 allegations of abuse and neglect and file reports as requested by state
96 agencies having statutory responsibility for the conduct and oversight
97 of such investigations. In the event of the death of a person with
98 mental retardation for whom the department has direct or oversight
99 responsibility for medical care, the commissioner shall: (1) Promptly
100 report such death to the Office of Protection and Advocacy for Persons
101 with Disabilities, and (2) ensure that a comprehensive and timely
102 review of the events, overall care, quality of life issues and medical
103 care preceding such death is conducted by the department and shall,
104 as requested, provide information and assistance to the Independent
105 Mortality Review Board established by Executive Order No. 25 of
106 Governor John G. Rowland and on and after the effective date of this
107 section, to the Fatality Review Board for Persons with Disabilities,
108 established pursuant to section 1 of this act. The commissioner shall
109 report to such fatality review board and such board shall review any
110 death: (A) Involving an allegation of abuse or neglect; (B) for which the
111 Office of Chief Medical Examiner or local medical examiner has
112 accepted jurisdiction; (C) in which an autopsy was performed; (D)
113 which was sudden and unexpected; or (E) in which the commissioner's
114 review raises questions about the appropriateness of care.

115 [(b)] (c) The commissioner shall be responsible for the development
116 of criteria as to the eligibility of any person with mental retardation for

117 residential care in any public or state-supported private institution
 118 and, after considering the recommendation of a properly designated
 119 diagnostic agency, may assign such person to a public or state-
 120 supported private institution. The commissioner may transfer such
 121 persons from one such institution to another when necessary and
 122 desirable for their welfare, provided such person and such person's
 123 parent, conservator, guardian or other legal representative receive
 124 written notice of their right to object to such transfer at least ten days
 125 prior to the proposed transfer of such person from any such institution
 126 or facility. Such prior notice shall not be required when transfers are
 127 made between residential units within the training school or a state
 128 mental retardation region or when necessary to avoid a serious and
 129 immediate threat to the life or physical or mental health of such person
 130 or others residing in such institution or facility. The notice required by
 131 this subsection shall notify the recipient of his or her right to object to
 132 such transfer, except in the case of an emergency transfer as provided
 133 in this subsection, and shall include the name, address and telephone
 134 number of the Office of Protection and Advocacy for Persons with
 135 Disabilities. In the event of an emergency transfer, the notice required
 136 by this subsection shall notify the recipient of his or her right to
 137 request a hearing in accordance with subsection [(c)] (d) of this section
 138 and shall be given within ten days following the emergency transfer.
 139 In the event of an objection to the proposed transfer, the commissioner
 140 shall conduct a hearing in accordance with subsection [(c)] (d) of this
 141 section and the transfer shall be stayed pending final disposition of the
 142 hearing, provided no such hearing shall be required if the
 143 commissioner withdraws such proposed transfer.

144 [(c)] (d) Any person with mental retardation who is eighteen years
 145 of age or older and who resides at any institution or facility operated
 146 by the Department of Mental Retardation, or the parent, guardian,
 147 conservator or other legal representative of any person with mental
 148 retardation who resides at any such institution or facility, may object to
 149 any transfer of such person from one institution or facility to another
 150 for any reason other than a medical reason or an emergency, or may

151 request such a transfer. In the event of any such objection or request,
 152 the commissioner shall conduct a hearing on such proposed transfer,
 153 provided no such hearing shall be required if the commissioner
 154 withdraws such proposed transfer. In any such transfer hearing, the
 155 proponent of a transfer shall have the burden of showing, by clear and
 156 convincing evidence, that the proposed transfer is in the best interest
 157 of the resident being considered for transfer and that the facility and
 158 programs to which transfer is proposed (1) are safe and effectively
 159 supervised and monitored, and (2) provide a greater opportunity for
 160 personal development than the resident's present setting. Such hearing
 161 shall be conducted in accordance with the provisions of chapter 54.

162 ~~[(d)]~~ (e) Any person, or the parent, guardian, conservator or other
 163 legal representative of such person, may request a hearing for any final
 164 determination by the department that denies such person eligibility for
 165 programs and services of the department. A request for a hearing shall
 166 be made in writing to the commissioner. Such hearing shall be
 167 conducted in accordance with the provisions of chapter 54.

168 ~~[(e)]~~ (f) Any person with mental retardation, or the parent, guardian,
 169 conservator or other legal representative of such person, may request a
 170 hearing to contest the priority assignment made by the department for
 171 persons seeking residential placement, residential services or
 172 residential support. A request for hearing shall be made, in writing, to
 173 the commissioner. Such hearing shall be conducted in accordance with
 174 the provisions of chapter 54.

175 ~~[(f)]~~ (g) Any person with mental retardation or the parent, guardian,
 176 conservator or other legal representative of such person, may object to
 177 (1) a proposed approval by the department of a program for such
 178 person that includes the use of behavior-modifying medications or
 179 aversive procedures, or (2) a proposed determination of the
 180 department that community placement is inappropriate for such
 181 person placed under the direction of the commissioner. The
 182 department shall provide written notice of any such proposed
 183 approval or determination to the person, or to the parent, guardian,

184 conservator or other legal representative of such person, at least ten
 185 days prior to making such approval or determination. In the event of
 186 an objection to such proposed approval or determination, the
 187 commissioner shall conduct a hearing in accordance with the
 188 provisions of chapter 54, provided no such hearing shall be required if
 189 the commissioner withdraws such proposed approval or
 190 determination.

191 Sec. 3. Subsection (l) of section 17a-274 of the general statutes is
 192 repealed and the following is substituted in lieu thereof (*Effective from*
 193 *passage*):

194 (l) In the event that any person placed under the provisions of this
 195 section is recommended for transfer by the Department of Mental
 196 Retardation, the department shall proceed as required by subsection
 197 [(c)] (d) of section 17a-210, as amended by this act, and shall in
 198 addition notify the probate court which made the placement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	17a-210
Sec. 3	<i>from passage</i>	17a-274(l)

HS

Joint Favorable C/R

PH